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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,652	03/23/2004	Andrey I. Savov	66329/00081	2601

23380 7590 06/27/2007
TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

EXAMINER

BRINICH, STEPHEN M

ART UNIT	PAPER NUMBER
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2625

MAIL DATE	DELIVERY MODE
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06/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10806652	3/23/04	SAVOV, ANDREY I.	66329/00081

TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
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EXAMINER

Stephen M. Brinich

ART UNIT	PAPER
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2625

20070620

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Office Action Summary	Application No. 10/806,652	Applicant(s) SAVOV, ANDREY I.	
	Examiner Stephen M. Brinich	Art Unit 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,6-12,17-23 and 28 is/are rejected.
- 7) ☒ Claim(s) 2-5,13-16,24-27 and 29-32 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/23/04</u> . | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9-11 & 20-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, line 1; claim 10, line 1; claim 11, line 1; claim 20, lines 1-2; claim 21, lines 1-2; and claim 22, lines 1-2, the term "the second color space" lacks proper antecedent basis in parent claims 1 & 11 (respectively).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6, 8, 12, 17, 19, 23, & 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Caruso (US 5592298).

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Re claims 1, 12, 23, & 28, Caruso discloses (Abstract; column , line) a method and means for receiving compressed (column 9, lines 49-54) image data in a first color space and analyzing the image data so as to generate a representative pixel count associated with each color so as to estimate the usage of consumable print supplies such as ink or toner (column 1, line 30).

Re claims 6, 8-9, 17, & 19-20, Caruso discloses (Figure 3) the use of black (the count of which applies to a black-white color space) and cyan, magenta, & yellow (the count of which applies to a subtractive primary color space).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 7 & 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caruso in view of Faris et al (US 2002/0012766).

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Re claims 7 & 18, Caruso does not disclose the use of additive-primary colored ink or toner.

Faris et al discloses (Abstract, paragraphs 0266 & 0268) the use of additive-primary colored toner in order to produce images with enhanced color saturation and brightness (paragraph 0005, 0017).

Caruso and Faris et al are combinable because they are from the field of printing by application of toner.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use the additive-primary colored toner of Faris in conjunction with the pixel-count toner-usage monitoring system of Caruso.

The suggestion/motivation for doing so would have been to enable the production of images with enhanced color saturation and brightness as taught by Faris et al while giving the user notice of low or empty toner supplies as taught by Caruso.

Therefore, it would have been obvious to combine Caruso with Faris et al to obtain the invention as specified in claims 7 & 18.

Allowable Subject Matter

7. Claims 2-5, 13-16, 24-27, & 29-32 are objected to as being dependent upon a rejected base claim, but would be allowable if

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rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 9-11 & 20-22, insofar as they are understood, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:

Re claims 2, 13, 24, & 29 (and dependent claims 3-5, 14-16, 25-27, & 30-32), and claims 9-11 & 20-22 insofar as they are understood, the art of record does not teach or suggest the recited translation of a pixel count of pixels associated with a first color space into a representative pixel count of pixels associated with a second color space as the image is mapped into the second color space in conjunction with the recited analyzing of compressed image data mapped to a first color space. (The references to the "second color space" in claims 9-11 & 20-22 imply that they were intended to depend from claims including this feature. Examiner has understood them in this light.)

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Gilliland et al is referenced by Caruso (column 1, lines 44-51) in reference to toner usage monitoring.

11. Any inquiry concerning the contents of this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at 571-272-7430.

Any inquiry relating to the status of this application or proceeding or any inquiry of a general nature concerning application processing should be directed to the Tech Center 2600 Customer Service center at 571-272-2600 or to the USPTO Contact Center at 800-786-9199 or 571-272-1000.

The examiner can normally be reached on weekdays 8:00-5:30, alternate Fridays off.

The examiner's unit designation has been changed from "Art Unit 2624" to "Technology Division 2625" (as of March 20, 2006).

If attempts to contact the examiner and the Customer Service Center are unsuccessful, supervisor David Moore can be contacted at 571-272-7437.

Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 571-273-8300 (as of July 15, 2005).

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Hand-carried correspondence may be delivered to the
Customer Service Window, located at the Randolph Building, 401
Dulany Street, Alexandria, VA 22314.

A handwritten signature in cursive script, reading "Stephen Brinich".

Stephen M Brinich

Examiner

Technology Division 2625

smb

June 20, 2007